

**FILED**  
Clerk  
District Court

**MAR -7 2008**

**For The Northern Mariana Islands**  
**By** \_\_\_\_\_  
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,	)	Criminal No. 08-00002
	)	
Plaintiff	)	
	)	
v.	)	ORDER DENYING
	)	MOTION TO DISMISS
MD. RUHUL AMIN,	)	INDICTMENT
	)	
Defendant	)	
_____	)	

Late yesterday, defendant moved to dismiss the indictment. The court received the motion this morning prior to 8:00 a.m. and the Assistant U.S. Attorney received it prior to the 10:30 a.m hearing. At the hearing, plaintiff appeared by and through Assistant U.S. Attorney Eric S. O'Malley; defendant appeared personally and through counsel, Colin M. Thompson (by telephone). Defendant also had an interpreter present with him in court and the interpreter had been sworn.

1 Because the Assistant U.S. Attorney indicated his willingness to argue the  
2 motion without having the opportunity to submit a written response in the short time  
3 before Monday's trial, the court entertained argument from both parties and now  
4 rules on defendant's motion to dismiss the indictment.  
5

6 The essence of defendant's argument is that plaintiff cannot successfully  
7 "bootstrap" to its passport fraud claim by relying on an underlying allegedly  
8 fraudulent marriage, because defendant's marriage met the facial requirements for a  
9 "valid" marriage under Commonwealth law. That is, because defendant's marriage  
10 met the facial requirements for a valid marriage under Commonwealth law, defendant  
11 did not make, and could not have made as a matter of law, any false statements about  
12 the validity of his marriage when he applied for his U.S. passport. Thus, according to  
13 defendant, the indictment must be dismissed.  
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17 In support of his argument, defendant offers two trial court decisions from the  
18 Commonwealth Superior Court. The court has read both decisions, which use  
19 almost identical language in deciding that the defendants in those cases did not  
20 violate a specific Commonwealth immigration statute when they submitted facially  
21 valid marriage licenses in support of their respective applications for "immediate  
22 relative" status entry permits.  
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1 This court looks almost exclusively only to the decisions of the  
 2 Commonwealth Supreme Court for guidance on questions of Commonwealth law.  
 3 Further, the court is unfamiliar with all the facts that underlay both these trial court  
 4 decisions, and so it would be difficult to rely on them in the context of the facts  
 5 presently before this court.<sup>1</sup> The court also notes that 3 N.Mar.I. § 4363(e) makes it a  
 6 crime for any person to enter into a marriage “for the purpose of...procuring or  
 7 attempting to procure the naturalization of any persons[.],” so evidence that the  
 8 facially valid marriage was in fact fraudulent seems highly relevant and probative.  
 9 Finally, the Commonwealth’s application of its own laws and court decisions to its  
 10 own immigration statutes is a far different matter than applying Commonwealth law  
 11 to an alleged violation of federal law.  
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13 In conclusion, defendant’s motion to dismiss the indictment is denied.  
 14 However, defendant may present a jury instruction containing the requisites for a  
 15 technically valid Commonwealth marriage and plaintiff may present a jury instruction  
 16 relating to 3 N.Mar.I. § 4363(e). The parties shall meet and confer, as previously  
 17 ordered, to see if they can agree on the language in their respective jury instructions,  
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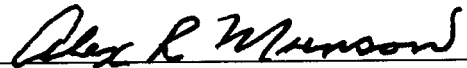
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24 Both matters were decided on pretrial motions. In language this court finds  
 25 relevant to the instant matter, the Commonwealth Superior Court stated, “The  
 26 Government fails to proffer any evidence showing that Defendants did not lawfully  
 marry and thus, forged or falsified their marriage licenses, or made false statements  
 concerning their marriage to one another.” This court believes that here the  
 plaintiff has offered evidence showing that defendants did not marry.

1 as well as plaintiff's proposed instructions 20 and 21. If they cannot agree, they shall  
2 meet with the court in chambers at 7:30 a.m., Monday, March 11, 2008. If they can  
3 agree, they shall notify the court and have the agreed-upon instructions available to  
4 the court by 8:00 a.m. Monday for its review. The parties need not be present in this  
5 latter circumstance.  
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8 IT IS SO ORDERED.

9 DATED this 7th day of March, 2008.  
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13 ALEX R. MUNSON

14 Judge  
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